

Senate Bill No. 1482

CHAPTER 355

An act to amend Section 366.3 of the Welfare and Institutions Code, relating to adoption.

[Approved by Governor August 24, 1998. Filed with
Secretary of State August 24, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1482, Rosenthal. Adoption: dependent children.

Existing law provides for the placement of children who have been adjudged dependent children of the juvenile court on the basis of abuse or neglect in long-term foster care. Existing law also authorizes a court to terminate parental rights with regard to a dependent child of the court and to order the child placed for adoption, under certain conditions.

Existing law requires that the status of a child be reviewed every 6 months when the child is in a placement other than the home of a legal guardian and the jurisdiction of the court over the child has not been dismissed. This review may be conducted by either the juvenile court or an appropriate local agency. However, under specified conditions, that review must be conducted by a court.

This bill would instead provide that this review shall be conducted at least every 6 months. The bill would generally permit the review of the status of a child to be conducted by either the court or an appropriate local agency with regard to the status of a child placed in long-term foster care. However, the bill would require that the review of the status of a child in long-term foster care be conducted by the court, under certain conditions. The bill would also require that the review of the status of a child be conducted by the court if the court has terminated parental rights and has ordered that the child be placed for adoption. In those cases, the bill would require that the county welfare department prepare and present to the court a report containing specified information concerning the child. By imposing additional duties on local employees, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 360, 366.25, or 366.26, the court shall retain jurisdiction over the child until the child is adopted or the legal guardianship is established. The status of the child shall be reviewed every six months to ensure that the adoption or guardianship is completed as expeditiously as possible. When the adoption of the child has been granted, the court shall terminate its jurisdiction over the child. The court may continue jurisdiction over the child as a dependent child of the juvenile court following the establishment of a legal guardianship or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship established pursuant to Section 360, 366.25, or 366.26 and as authorized by Section 366.4. Following a termination of parental rights the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the child.

(b) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a guardianship which has been granted pursuant to Section 360, 366.25, or 366.26 shall be held in the juvenile court, unless the termination is due to the emancipation or adoption of the child. If the petition to terminate guardianship is granted, the juvenile court may resume dependency jurisdiction over the child, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the probation officer shall make any investigation he or she deems necessary to determine whether the child may be within the jurisdiction of the juvenile court, as provided in Section 328.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the guardianship has



been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the child in another permanent placement. At the hearing, the parents may be considered as custodians but the child shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the child. The court may, if it is in the interests of the child, order that reunification services again be provided to the parent or parents.

(c) If, following the establishment of a legal guardianship, the county welfare department or probation department becomes aware of changed circumstances that indicate adoption may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the child and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued guardianship is the most appropriate plan for the child. The hearing shall be held no later than 120 days from the date of the order. Whenever the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment under subdivision (b) of Section 366.22.

(d) If the child is in a placement other than the home of a legal guardian and jurisdiction has not been terminated, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. However, the court shall conduct the review under the following circumstances:

- (1) Upon the request of the child's parents or guardians.
- (2) Upon the request of the child.
- (3) It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the child remain in long-term foster care pursuant to Section 366.21, 366.22, or 366.26, or subdivision (g).
- (4) It has been 12 months since a review was conducted by the court.

(e) Except as provided in subdivision (f), at the review held at least every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the child and shall determine all of the following:

- (1) The appropriateness of the placement.



(2) The continuing appropriateness and extent of compliance with the permanent plan for the child.

(3) The extent of compliance with the child welfare services case plan.

(4) The adequacy of services provided to the child. The review shall also include a determination of the services needed to assist a child who is 16 years of age or older make the transition from foster care to independent living.

Each licensed foster family agency shall submit reports for each child in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the child's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the child.

Unless their parental rights have been permanently terminated, the parent or parents of the child are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the interests of the child, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services be provided to the parent or parents for a period not to exceed six months.

(f) At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, the county welfare department shall prepare and present to the court a report describing the following:

(1) The child's present placement.

(2) The child's current physical, mental, emotional, and educational status.

(3) Whether the child has been placed with a prospective adoptive parent or parents.

(4) Whether an adoptive placement agreement has been signed and filed.

(5) The progress of the search for an adoptive placement if one has not been identified.

(6) Any impediments to the adoption or the adoptive placement.

(7) The anticipated date by which the child will be adopted, or placed in an adoptive home.

(8) The anticipated date by which an adoptive placement agreement will be signed.

(9) Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.

The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.

(g) At the review held for a child in long-term foster placement and for whom 12 months have elapsed since a hearing at which the child was ordered into long-term foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or appointed a legal guardian, or whether the child should remain in foster care. The court shall order that a hearing be held pursuant to Section 366.26 unless it determines by clear and convincing evidence that the child is not a proper subject for adoption or that there is no one willing to accept legal guardianship. Only upon that determination may the court order that the child remain in long-term foster care, without holding a hearing pursuant to Section 366.26.

(h) If, as authorized by subdivision (g), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the department when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

